

(2) Through contract by the public agency with an individual, association, agency, or organization.

(b) In providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be independent of the private school that the students attend, and of any religious organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

(c) Federal funds used to provide GEAR UP services to students attending private schools may not be commingled with non-Federal funds.

(Authority: 1070a–21 to 1070a–28)

**§ 694.7 What are the matching requirements for a GEAR UP grant?**

(a) In order to be eligible for GEAR UP funding—

(1) An applicant must state in its application the percentage of the cost of the GEAR UP project the applicant will provide for each year from non-Federal funds, subject to the requirements in paragraph (b) of this section; and

(2) A grantee must make substantial progress towards meeting the matching percentage stated in its approved application for each year of the project period.

(b) Except as provided in §§ 694.8 and 694.9, the non-Federal share of the cost of the GEAR UP project must be not less than 50 percent of the total cost of the project (i.e., one dollar of non-Federal contributions for every one dollar of Federal funds obligated for the project) over the project period.

(c) The non-Federal share of the cost of a GEAR UP project may be provided in cash or in-kind.

(Authority: 20 U.S.C. 1070a–23)

[75 FR 65798, Oct. 26, 2010]

**§ 694.8 Under what conditions may the Secretary approve a request from a Partnership applying for a GEAR UP grant to waive a portion of the matching requirement?**

(a) The Secretary may approve a Partnership applicant's request for a waiver of up to 75 percent of the matching requirement for up to two

years if the applicant demonstrates in its application a significant economic hardship that stems from a specific, exceptional, or uncontrollable event, such as a natural disaster, that has a devastating effect on the members of the Partnership and the community in which the project would operate.

(b)(1) The Secretary may approve a Partnership applicant's request to waive up to 50 percent of the matching requirement for up to two years if the applicant demonstrates in its application a pre-existing and an on-going significant economic hardship that precludes the applicant from meeting its matching requirement.

(2) In determining whether an applicant is experiencing an on-going economic hardship that is significant enough to justify a waiver under this paragraph, the Secretary considers documentation of such factors as:

(i) Severe distress in the local economy of the community to be served by the grant (*e.g.*, there are few employers in the local area, large employers have left the local area, or significant reductions in employment in the local area).

(ii) Local unemployment rates that are higher than the national average.

(iii) Low or decreasing revenues for State and County governments in the area to be served by the grant.

(iv) Significant reductions in the budgets of institutions of higher education that are participating in the grant.

(v) Other data that reflect a significant economic hardship for the geographical area served by the applicant.

(3) At the time of application, the Secretary may provide tentative approval of an applicant's request for a waiver under paragraph (b)(1) of this section for all remaining years of the project period. Grantees that receive tentative approval of a waiver for more than two years under this paragraph must submit to the Secretary every two years by such time as the Secretary may direct documentation that demonstrates that—

(i) The significant economic hardship upon which the waiver was granted still exists; and

(ii) The grantee tried diligently, but unsuccessfully, to obtain contributions

needed to meet the matching requirement.

(c) The Secretary may approve a Partnership applicant's request in its application to match its contributions to its scholarship fund, established under section 404E of the HEA, on the basis of two non-Federal dollars for every one Federal dollar of GEAR UP funds.

(d) The Secretary may approve a request by a Partnership applicant that has three or fewer institutions of higher education as members to waive up to 70 percent of the matching requirement if the Partnership applicant includes—

(1) A fiscal agent that is eligible to receive funds under title V, or Part B of title III, or section 316 or 317 of the HEA, or a local educational agency;

(2) Only participating schools with a 7th grade cohort in which at least 75 percent of the students are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act; and

(3) Only local educational agencies in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act.

(Authority: 20 U.S.C. 1070a–23)

[75 FR 65798, Oct. 26, 2010]

**§ 694.9 Under what conditions may the Secretary approve a request from a Partnership that has received a GEAR UP grant to waive a portion of the matching requirement?**

(a) After a grant is awarded, the Secretary may approve a Partnership grantee's written request for a waiver of up to—

(1) 50 percent of the matching requirement for up to two years if the grantee demonstrates that—

(i) The matching contributions described for those two years in the grantee's approved application are no longer available; and

(ii) The grantee has exhausted all funds and sources of potential contributions for replacing the matching funds.

(2) 75 percent of the matching requirement for up to two years if the grantee demonstrates that matching contributions from the original application are no longer available due to

an uncontrollable event, such as a natural disaster, that has a devastating economic effect on members of the Partnership and the community in which the project would operate.

(b) In determining whether the grantee has exhausted all funds and sources of potential contributions for replacing matching funds, the Secretary considers the grantee's documentation of key factors such as the following and their direct impact on the grantee:

(1) A reduction of revenues from State government, County government, or the local educational agency (LEA).

(2) An increase in local unemployment rates.

(3) Significant reductions in the operating budgets of institutions of higher education that are participating in the grant.

(4) A reduction of business activity in the local area (*e.g.*, large employers have left the local area).

(5) Other data that reflect a significant decrease in resources available to the grantee in the local geographical area served by the grantee.

(c) If a grantee has received one or more waivers under this section or under § 694.8, the grantee may request an additional waiver of the matching requirement under this section no earlier than 60 days before the expiration of the grantee's existing waiver.

(d) The Secretary may grant an additional waiver request for up to 50 percent of the matching requirement for a period of up to two years beyond the expiration of any previous waiver.

(Authority: 20 U.S.C. 1070a–23)

[75 FR 65799, Oct. 26, 2010]

**§ 694.10 What are the requirements that a Partnership must meet in designating a fiscal agent for its project under this program?**

Although any member of a Partnership may organize the project, a Partnership must designate as the fiscal agent for its project under GEAR UP—

(a) A local educational agency; or

(b) An institution of higher education that is not pervasively sectarian.

(Authority: 20 U.S.C. 1070a–22)

[65 FR 24760, Apr. 27, 2000. Redesignated at 75 FR 65798, Oct. 26, 2010]